THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 21430 of 2005

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Dated:03.10.2005

Between:

Smt. B. Lavanya Latha, D/o. Late Adinarayana,
Lavanya Complex Akkayyapalem,
Visakhapatnam.

..... PETITIONER

AND

The Municipal Commissioner
Municipal Corporation Buildings Visakhapatnam.

.....RESPONDENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No. 21430 of 2005

ORDER:

The petitioner claims to have purchased a site admeasuring 451 square yards in premises bearing Door No.44-23-28/B, in T.S.No.127 of Allipuram Ward in Division No.32 of Visakhapatnam Municipal Corporation. The petitioner allegedly obtained building permission on 11.03.2005 from the respondent-Corporation for construction of ground floor+three floors. While the petitioner was constructing the house, the staff of the respondent-Corporation allegedly came to the site on 27.09.2005 and resorted to demolition of the wall, without issuing any notice under Section 452 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act'). Therefore, the petitioner seeks a writ of Mandamus declaring the action of the respondent in interfering with the structures of the petitioner as arbitrary and illegal.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Municipal Corporation of Visakhapatnam.

There cannot be any denial that if a person is making construction in deviation of the building plan it would be illegal. It does not, however, mean that the respondent-Corporation can initiate action for demolition of illegal structures/illegal construction, without following the procedure contemplated under Sections 452, 460, 461 and/or 636 of the Act.

Therefore, the writ petition is disposed of at the admission stage, observing that unless and until proper procedure contemplated under the provisions of the Act is followed, the respondent is not entitled to take action against the petitioner, who allegedly obtained permission from the respondent-Corporation. No costs.

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(V.V.S.RAO, J)

03.10.2005

Note: Issue C.C in two days.

B/o.

vs